

DRAFT OF CONSTITUTION

English Translation of Official Document
Presented: Contains 160 Articles

The draft of the proposed new Constitution of the Republic of China has been translated into English by Dr. Andrew Lee, Secretary of the Legislative Yuan, and the translation released for publication to-day.

The draft Constitution contains 160 articles, covering all the important phases of Chinese affairs. It is divided into ten parts: general provisions; rights and duties of the People; the People's economic life; the People's education; the National Congress; the division of power between the Central and local governments; the Central political system; the Province; the Local government system; and annex.

The document is given in full below:

Part I. General Provisions

Article 1. The Republic of China is a "San-Ming-Chu-I" Republic.

Article 2. The sovereignty of the Republic of China emanates from the people as a whole.

Article 3. All persons who possess the nationality of the Republic of China shall be citizens of the Republic of China.

Article 4. The territory of the Republic of China consists of the provinces: Kiangsu, Chekiang, Anhwei, Kiangsi, Hupeh, Hunan, Szechwan, Sikong, Hopeh, Shantung, Shansi, Honan, Shensi, Kansu, Chinghai, Fukien, Kwangtung, Kwangsi, Yunnan, Kweichow, Liuring, Kirin, Heilunkiang, Jehol, Chahar, Suiyuan, Ninhhsia, Sinkiang and areas of Mongolia and Tibet.

No alteration of the territory shall be made unless otherwise decided by the National Congress.

The administrative areas and the names for the same shall be prescribed by law.

Article 5. Nanking shall be the National Capital of the Republic of China.

Article 6. The National Flag of the Republic of China shall have a red background with a "blue sky and white sun" in the upper left corner.

Part II. Rights and Duties of the People

Article 7. All citizens of the Republic of China shall be equal before the law, irrespective of sex, race, religion, caste or vocation.

Article 8. All persons shall have personal liberty and except in accordance with the law, shall not be arrested, detained, tried or punished.

When a person is arrested or detained on a criminal charge, the organ responsible for his arrest or detention shall inform him or his relatives of the cause for his arrest or detention and send him to the competent court for trial not later than 24 hours. The party concerned may himself petition, or some other person may petition on his behalf that he be brought before the court for trial within 24 hours.

The court may not reject such petition and the organ responsible for such arrest or detention may not reject the court's demand for trial.

Article 9. No persons other than those in active military service shall be subject to trial by a military court.

Article 10. All persons shall have freedom of domicile and except in accordance with law no dwellings of the people shall be subject to forcible entry, search or sealing.

Article 11. All persons shall be free to choose and change their residence; such freedom shall not be denied or restricted except in accordance with law.

Article 12. All persons shall have the freedom of assembly and formation of associations; such freedom shall not be denied or restricted except in accordance with law.

Article 13. All persons shall have freedom of speech, of writing and of publication; such freedom shall not be denied or restricted except in accordance with law.

Article 14. All persons shall have the right to the privacy of correspondence; such freedom shall not be denied or restricted except in accordance with law.

Article 15. All persons shall have freedom of religious belief; such freedom shall not be restricted except in accordance with law.

Article 16. Except in accordance with law, no private property shall be expropriated, collected, sealed or confiscated.

Article 17. All persons shall have the right of petition, of complaints and of judicial proceedings at the court of Justice in accordance with law.

Article 18. All persons shall have the rights of election, initiative, recall, and referendum in accordance with law.

Article 19. All persons shall have the right to compete in civil service examinations in accordance with law.

Article 20. All persons shall have the duty of paying taxes in accordance with law.

Article 21. All persons shall have the duty of performing military service and compulsory labour in accordance with law.

Article 22. All persons shall have the duty of performing public service in accordance with law.

Article 23. Those laws limiting the freedom and rights of the people, referred to in the previous articles, shall not be enacted unless demanded by the necessity to preserve public interests or public safety.

Part III. People's Economic Life

Article 24. The nation shall establish an economic system based on The Principle of Livelihood (or Min-Sun-Chu-I) to ameliorate the production, distribution and consumption of wealth, so as to effect the sufficiency of People's livelihood.

Article 25. The land within the territory of the Chinese Republic shall belong to the People as a whole. The right to ownership of such lands as secured by the people according to law shall receive the protection of and limitation by the law.

Persons having the right to ownership of lands shall bear the obligation of using such lands.

Article 26. Mines and natural forces of public utility with economic value attached to the lands shall belong to the nation and are not effected by virtue of right to ownership of the people.

Article 27. The increase in the value of lands not due to the em-

ployment of labour and be publicly shared by the people. The public share by the people of the above increase in the value of lands shall be carried out through the collection of a tax on the crisis in land value.

Article 28. The nation shall take to helping of the farmers who cultivate their own lands and those who use their own lands as a principle to distribute and regulate the lands.

Article 29. In order to ameliorate the distribution of wealth, the nation shall adopt the following methods:

- 1 The collection of income tax and inheritance tax according to a "multiplying scale."
- 2 The establishment of a rational system for the distribution of profits so as to balance the economic interests between the labour and the capital.
- 3 The limitation of interests on the borrowing of capital and rentals on the use of real estate.

Food Prices

- 4 The regulation of prices of food and other principal articles necessary to living.
- 5 The promotion of various co-operative enterprises.

Article 30. In order to reform the living conditions of the labourers, the nation shall administer labour protective policy. Women and children engaged in manual labour shall receive special protection according to their age and physical conditions.

Article 31. Both labour and capital shall base on the principle of compromise and mutual benefit to develop productive enterprises.

Article 32. People who are crippled or dead as a result of war duty, labouring duty and which officiating public duty shall receive appropriate relief and pension from the nation.

Article 33. In order to develop rural economics, the government shall positively carry out the following measures:

- 1 To colonize and reclaim waste lands and to irrigate agricultural lands.
- 2 To establish farm credit machinery and encourage co-operative enterprises in agricultural communities.
- 3 To carry out grain conservation system for and the prevention of famine and sufficiency of food supply.
- 4 To develop agricultural education and to ameliorate farmers' living conditions.
- 5 To reform residences and to build roads in agricultural communities.

Part IV. People's Education

Article 34. "San-Min-Chu-I" shall be the basic principle of education in the Republic of China.

Article 35. All persons shall have equal opportunity for education.

Article 36. The chief aims of education shall be the cultivation of higher personality, promotion of living ability and nurture of healthy citizens.

Article 37. All children of school age shall receive free education. Those who have not had free education shall receive special adult education.

Article 38. All public and private educational institutions in the country shall be subject to the supervision of the State, and shall also be responsible for the carrying out of the educational policies adopted by the State.

Article 39. National universities and technical colleges shall lay emphasis upon the necessity of their localities in order to maintain equal opportunity for higher education for the people of their localities and to promote equitable development of civilisation throughout the nation.

Article 40. The expenditure on education shall not be less than 15 per cent. of the budget of the entire administrative expenditure for the central government and not less than 30 per cent. for the

local government. The security of funds which are, by law, specially set apart for educational purpose shall be guaranteed.

Article 41. The State shall give encouragement or grants to private educational institutions which have achieved particularly satisfactory results.

Article 42. Encouragements and grants shall be given for the education of overseas Chinese.

Article 43. All public and private educational institutions in the country shall establish scholarships and prizes for the encouragement of deserving but needy students.

Article 44. The State shall encourage and safeguard members of the administration or teaching staff of schools who hold satisfactory records and have been long in service.

Article 45. The State shall encourage and protect research and inventions.

Article 46. The State shall protect and preserve historic remains and ancient relics which have historical, cultural or artistic value.

Part. V. The National Congress

Article 47. The National Congress shall be composed of the delegates of the people elected in accordance with the following procedure:

- (1) Every district or municipality or area of the same grade elects one delegate. Regulations governing the district, municipality or area of the same grade shall be provided by law.
- (2) The number of delegates of the people elected from Mongolia shall be provided by law.
- (3) The number of delegates of the people elected from overseas Chinese shall be provided by law.

Article 48. The delegates shall be elected by universal, equal, direct and unnamed suffrage.

Article 49. Any Chinese citizen over 20 years of age shall, by law, have the right of election; those over 25 years of age shall, by law, have the right to be elected.

Article 50. The Congress meets once triennially and the session lasts for one month.

Article 51. The powers and functions of the Congress are as follows:

- (1) To elect or recall the President or Vice-President of the Republic, the members of the Legislative or Control Yuan, the President or Vice-President of the Judicial Yuan, or the President or Vice-President of Examination Yuan, and to recall the President of the Executive Yuan.
- (2) To initiate legislative principles.
- (3) To make referendum of laws.
- (4) To adopt and amend the Constitution.
- (5) To investigate reports of the National Government.
- (6) To consider and solve specific problems submitted by the National Government.
- (7) Those other powers and functions which are granted in accordance with this Constitution.

Limited Responsibility

Article 52. The delegates of the Congress shall not be held responsible outside of Congress for their declarations or votes.

Article 53. Without the consent of the Congress, the delegates shall not be arrested or imprisoned during the session except in case they are detected flagrante delicto.

Article 54. The powers and functions of the delegates terminate at the adjournment of the session.

Article 55. During the adjournment of the Congress, there shall be a People's Committee composed of 21 members and 10 candidate members elected by the Congress. Those members are not necessarily the delegates of the Congress.

Article 56. The members and candidate members of the People's Committee shall have the following qualifications:

- (1) Those who are over 45 years of age.
- (2) Those who have rendered meritorious and unparalleled services to the State.
- (3) Those who have made unusual and valuable contributions to political or technical knowledges.

Article 57. The members of the People's Committee shall not hold any concurrent posts.

Article 58. The powers and functions of the People's Committee are as follows:

- (1) To take over the management of the Congress's Secretariat and to make preparations for the next session during the adjournment of the Congress.
- (2) To call a provisional Congress at the request of the National Government or of an impeachment of the Control Yuan against the President or Vice-President of the Republic with the consent of three-fourths of the members.
- (3) To consider the Control Yuan's impeachments against Presidents and Vice-Presidents of the Executive, Judicial and Examination Yuans and members of the Legislative and Control Yuans.
- (4) To consider the Legislative Yuan's non-confidence vote against the President of the Executive Yuan.
- (5) Those other powers and functions which are granted in the Constitution.

Article 59. The organisation and election of the Congress and the People's Committee shall be provided by law.

Part VI. Central and Local Govts.

Article 60. The principle of equilibrium shall be adopted in the division of power between the Central and local governments. The Central government shall have jurisdiction over matters of national interest while local governments shall have jurisdiction over matters of local interests.

Article 61. The Central Government shall have legislative power over the following matters:

- (1) Nationality.
- (2) Civil and criminal law and law of procedure.
- (3) Justice.
- (4) Examination.
- (5) Supervision.
- (6) National Defense and military system.
- (7) Foreign Affairs.
- (8) Census.
- (9) Local political system.
- (10) Police and Public Peace.
- (11) Education and culture.
- (12) Hygiene, epidemics prevention and medicine.
- (13) Calendar, weights and measures and other system of calculation that require uniform regulation.
- (14) Finance and finance-supervision.
- (15) Coinage and national banks.
- (16) National monopoly and other national economic enterprises.
- (17) Land system.
- (18) Labour system.
- (19) Posts, telegraphs and other national enterprises for land, water, or aerial communication or transportation.
- (20) National public works, waterways, and other matters concerning national reconstruction.
- (21) Trade marks, monopolies, patents and other economic rights that require uniform regulation.
- (22) Banking, insurance and other monetary undertakings.
- (23) Mining, forestry and fishery.
- (24) Overseas Chinese.
- (25) Immigration and exploration.
- (26) Such other matters that require uniform regulation throughout the nation.

Article 62. Such other matters as are not enumerated in the preceding article may come under the jurisdiction of the local government, or the Central Government may lay down general principles for the local governments to regulate them. But those regulations of the local

governments in conflict with laws of Central Government shall be null and void.

Article 63. The Central Government shall have control of the naval, military and air forces, which shall be conscripted and trained in accordance with law.

Article 64. The demarcation of Central and local revenues and their method of financial assistance shall be provided by law.

Article 65. The budget and statement of accounts of the Central and local governments shall be prepared once every fiscal year. The scope and procedure of the budget and statement of accounts shall be provided by law.

The budget and accounts of public enterprises of the Central and local governments shall be provided by law, but their profit and loss shall be incorporated in the governments' budget and accounts.

Article 66. In the organization of governments' financial organs, the bureaus of currency and cash, supervision and audit shall each maintain its independence.

Part VII. Central Political System

Section 1. The National Govt.:

Article 67. The National Government shall exercise the executive, legislative, judicial, examination and control powers of the Republic of China.

Article 68. The National Government shall be constituted by the President of the Republic, and the Executive, legislative, judicial, Examination, and Control Yuans.

Article 69. The President of the Republic and the five Yuans shall be responsible to the National Congress.

Article 70. Laws promulgated and Mandates issued by the National Government shall, in accordance with law, be signed by the President of the Republic and counter-signed by the President of the Yuan concerned.

Article 71. The National Government shall have supreme command over the land, naval and air forces.

Article 72. The National Government shall have the power to declare war, to negotiate peace and to conclude treaties.

Article 73. The National Government shall proclaim and cancel martial law.

Article 74. The National Government shall exercise the power of granting amnesties, pardons, reprieves and restitution of civic rights.

Article 75. The National Government shall exercise the power of conferring medals and decorations of honour.

Article 76. The Presidents of the five Yuans may issue orders in accordance with law.

Section 2. The President of the Republic

Article 77. Every Chinese citizen who has attained the age of 45 is eligible to be elected as President or Vice-President of the Republic.

Article 78. The election of President and Vice-President shall be provided by law.

Article 79. The term of office of the President and the Vice-President is six years. In the event of re-election he may continue for another term.

Article 80. The President shall represent the Republic in foreign relations.

Article 81. In case the President or Vice-President of the Judicial Yuan or Examination Yuan vacate

Section 7. The Control Yuan

Article 120. The Control Yuan shall be the highest supervisory organ of the National Government.

Article 121. The Control Yuan shall have a President and a Vice-President to be elected by and from among the members of the Yuan.

Article 122. The number of members of the Control Yuan shall not exceed 50 whose term of office shall be three years. They are re-eligible.

The numbers of Control Yuan members shall be distributed on the basis of locality and character and scholarship. They are not necessarily the delegates of the National Congress.

Article 123. The Control Yuan shall establish an Auditing Commission for the auditing examination and financial inspection.

Article 124. There shall be five members in the Auditing Commission who shall be appointed by the National Government in accordance with law. A Chairman shall be elected by and from among the five members.

Article 125. The report of accounts made by the Auditing Commission shall be promulgated by the Control Yuan after the examination of all the members of the Yuan.

Article 126. The Control Yuan members shall not be held responsible for their speeches and opinions outside of the Yuan.

Article 127. Without the consent of the Control Yuan, its members shall not be arrested or imprisoned unless they are apprehended in flagrant delicta.

Article 128. The Control Yuan members shall not hold any concurrent government posts or vocations.

Article 129. The election of Control Yuan members, the organization of the Control Yuan and the guarantee for the members of the Auditing Commission and auditing officers shall be provided by law.

Part VIII. Provinces

Article 130. Province is an administrative area directly controlled by the Central Government.

Article 131. A province shall have a Provincial Council to be composed of Councillors directly elected by the people. Each district or municipality shall be entitled to send one councillor and the term of office is three years. They are re-eligible.

Article 132. The Provincial Council shall be convened once every half year for a session of one month. Extra-ordinary sessions may be called when necessary.

Article 133. The powers and functions of the Provincial Council are as follows:

- (1) To elect the Governor.
- (2) To examine the provincial budget.
- (3) To propose bills covering the province to the Legislative Yuan.
- (4) To pass provincial ordinances in accordance with law.
- (5) To propose the introduction or abolition of provincial administrative measures to the Executive Yuan or the Governor.

Article 134. The Province shall have a Governor to be elected by the Provincial Council from the five candidates nominated by the Executive Yuan and shall be appointed by the National Government. The term of office is three years.

Article 135. A military-man shall not be candidate for governor unless he has quitted from military service for three years.

Article 136. The Governor shall be subject to the direction of the Central Government in dealing with matters in regard to national administration and supervision of district autonomy.

Article 137. The organization of the Provincial Council, the election of Councillors, the organization of the Governor's office, and the election of the Governor shall be provided by law.

Article 138. The political system of those areas which have not yet been created as provinces shall be provided by law.

Part IX. Local Govt. System**Section 1. District**

Article 139. District is a unit of local self-government.

Article 140. The functions of the district self-government are these:

- (1) Census of the district.
- (2) District's land policy.
- (3) District's finance.
- (4) Communications, waterways, and other matters related to economic construction.
- (5) Police and public order.
- (6) Education and culture.
- (7) Hygiene.
- (8) Protection of living creatures.
- (9) Preservation and management of public properties.
- (10) Protection and preservation of historic remains.
- (11) Other matters within the jurisdiction of district self-government.

Article 141. The district people shall, by law, exercise the rights of election, initiative, recall and referendum concerning matters related to district autonomy.

Article 142. Every District shall establish a District Assembly composed of from 9 to 17 members to be directly elected by the people. The term of office is three years and re-eligible.

Article 143. The District Assembly shall be convened once every half year for a session of one month. Extra-ordinary sessions may be called when necessary.

Article 144. The powers and functions of the District Assembly are as follows:

- (1) To pass district ordinances.
- (2) To vote on the district budget and accounts.
- (3) To propose the introduction or abolition of district administrative affairs to the District Government.
- (4) Impeachment against the Magistrate.
- (5) Examination of district finance.
- (6) To consider matters submitted by the Magistrate.

Article 145. Every district shall have a district government with a Magistrate to be elected directly by the people. The term of office is three years and re-eligible. Only those who have passed the civil service examination of the National Government are qualified to be the candidates for Magistrates.

Article 146. The Magistrate shall be subject to the direction of the Governor in dealing with matters in regard to district autonomy and national administration.

Article 147. When a magistrate either has violated the law or failed to perform his duty, he may be impeached by a majority of three-fourths of the members of the District Assembly. The District Assembly may request the people to recall him. But in case such impeachment is rejected by the people, the District Assembly shall be dissolved and a new election shall be held.

Article 148. The organization of a District Assembly, the election of District Assembly members, the organization of a District Government and the election of a Magistrate shall be provided by law.

Section 2. Municipality

Article 149. Municipality is a self-governing body. Except when otherwise provided by law, the provisions governing the District self-government are applicable to the municipality.

Article 150. The people of the municipality shall, by law, exercise the rights of election, initiative, recall and referendum concerning matters related to municipal autonomy.

Article 151. Every municipality shall establish a municipal Assembly composed of from 11 to 29 members to be elected directly by the people of the municipality. The term of office is three years and officers are re-eligible.

Article 152. The provisions of convocation and the power and function of the District Assembly are applicable to the municipal assembly.

Article 153. Every municipality shall have a municipal government and a mayor to be elected directly by the people of the municipality. The term of office is three years and re-eligible. Only those who have passed the examination of the National Government are qualified to be the candidates for mayors.

Article 154. The Mayor shall be subject to the direction of the supervisory organ in dealing with matters in regard to municipal autonomy and national administration.

Article 155. The organization of the Municipal Assembly, the election of Municipal Assembly members, the organization of the municipal government and the election of the Mayor shall be provided by law.

Part X Annex

Article 156. All laws in conflict with this Constitution shall be null and void.

Article 157. The interpretation of this Constitution shall be proposed by the Legislative Yuan and decided by the National Congress, or the People's Committee if during the adjournment of the National Congress.

Article 158. Amendment of the Constitution shall not be made unless proposed by over one-third of the delegates to the National Congress and decided by a majority vote of over three-fourths of the delegates present out of an attendance of over two-thirds of its entire membership.

Article 159. This Constitution shall be enacted and promulgated by the National Congress.

Article 160. This Constitution shall come into force from the date of promulgation.

Yuan bills concerning declaration of war, negotiation for peace, conclusion of treaty and those other matters related to international affairs.

- (4) Proposals suggested by the Ministries and Committees.
- (5) Matters in which Ministries or Committees have a common interest.
- (6) Other matters submitted by the President of the Executive Yuan.

Article 91. The organization of the Executive Yuan shall be provided by law.

Section 4. The Legislative Yuan

Article 92. The Legislative shall be the highest legislative organ of the National Government.

Article 93. The Legislative Yuan shall have a President and a Vice-President to be elected by and from among its members.

Article 94. The number of legislative members shall not exceed 200. Their term of office shall be three years. They are re-eligible. The number of legislative members shall be distributed on the basis of locality, vocation and scholarship. They are not necessarily the delegates of the National Congress.

Article 95. The Legislative Yuan shall have the powers to pass the bills concerning law-making, budget, martial law, amnesty, the declaration of war, the negotiation of peace, the conclusion of treaty and other important matters related to international affairs.

Article 96. The Legislative Yuan shall have the power of interpellation concerning the political policies and execution of bills of the Executive Yuan.

If the Legislative Yuan shall not be satisfied with the answer from the Executive Yuan, by a majority vote of two-thirds of the members present, a vote of non-confidence against the Executive Yuan may be passed.

Article 97. Bills concerning their own matters may be brought to the Legislative Yuan by the Executive, Judicial, Control, and Examination Yuans.

Article 98. The President of the Republic may request the Legislative Yuan to re-consider the resolution of any matter before promulgation. But if the Legislative Yuan on re-consideration, with a majority vote of two-thirds of the members present, stands by the resolution, no further request shall be made.

Article 99. The bills passed by the Legislative Yuan shall be promulgated by the National Government within fifteen days of notice.

Article 100. The Legislative Yuan members shall not be held responsible for their speeches and opinions outside of the Yuan.

Article 101. Without the consent of the Legislative Yuan, no member shall be arrested or imprisoned except when he is apprehended in flagrante delicto.

Article 102. The Legislative Yuan members shall not hold any concurrent government posts or any vocation.

Article 103. The election of Legislative Yuan members and the organization of the Legislative Yuan shall be provided by law.

Section 5. The Judicial Yuan

Article 104. The Judicial Yuan shall be the highest judicial organ of the National Government.

Article 105. The Judicial Yuan shall have a President and a Vice-President whose term of office shall be three years. They are re-eligible.

Article 106. The Judicial Yuan shall control the administration of justice and supervise the judgments of the courts.

Article 107. The Judicial Yuan shall have a Supreme Court and a Commission for the Disciplinary Punishment of Public Functionaries.

Article 108. The President of the Supreme Court and the Chairman of the Commission for the Disciplinary Punishment of Public Functionaries shall be appointed by the National Government upon recommendation of the President of the Judicial Yuan.

Article 109. The President of the Judicial Yuan may forward such matter relating to pardons, reprieves and restitution of civic rights to the National Government for its execution.

Article 110. The courts of justice shall accept and deal with civil, criminal and administrative as well as other cases in accordance with law.

Article 111. The Supreme Court shall have the power to unify the interpretation of laws.

Article 112. All Judges shall be independent in the exercise of their functions in accordance with law.

Article 113. No Judge shall be removed from office, unless he has been subject to criminal or disciplinary punishment or declaration of interdiction. He shall not be suspended from office or transferred or have his salary reduced, except in accordance with law.

Article 114. The organization of the Judicial Yuan shall be provided by law.

Section 6. The Examination Yuan

Article 115. The Examination Yuan shall be the highest organ for examination of the National Government.

Article 116. The Examination Yuan shall have a President and a Vice-President whose term shall be three years. They are re-eligible.

Article 117. The Examination Yuan shall establish a Ministry of Personnel headed by a Minister who shall, by law, be appointed by the National Government upon recommendation of the President of the Examination Yuan.

Article 118. The following qualifications shall be first determined by the Examination Yuan by means of examination:

- (1) Qualification of public functionaries for appointment.
- (2) Qualification of public functionaries for candidacy.
- (3) Qualification of professional and technical experts.

Article 119. The organization of the Examination Yuan shall be provided by law.